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Lead Trial Attorney for Mr. Herzberg

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**DARYN HERZBERG**

Case No. 3:26-cv-410

Plaintiff

**COMPLAINT**

vs

**THE UNITED STATES  
OF AMERICA**

Defendant

1.

**INTRODUCTION**

Mr. Herzberg is an American citizen and a U.S. Marine Corps veteran who lives in Portland, Oregon. Over the past year, federal agents have targeted Mr. Herzberg with excessive force while he was peaceably assembled outside the Portland ICE facility.

2.

The U.S. Constitution guarantees Mr. Herzberg the right to speak freely while peaceably assembled.<sup>1</sup> Federal agents specifically targeted Mr. Herzberg with excessive force because he used his First Amendment rights to criticize the Trump administration.<sup>2</sup> The Trump administration has a history of deploying federal agents to Portland as a form of political theatre.<sup>3</sup> As confirmed by internal memos and Congressional testimony, federal agents deployed by the Trump administration lack proper training and receive secret orders to violate the U.S. Constitution.<sup>4 5</sup>

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<sup>1</sup> U.S. Const. amend. I.

<sup>2</sup> **Willamette Week**, *You're Not Talking Shit Anymore, Are You?": Veteran Alleges Federal Agents Targeted Him for Assault* (August 21, 2025).

<sup>3</sup> **Oregon Public Broadcasting**, *Oregon Governor Says 'Trump Troops' in Portland are Escalating Tensions, Not Easing Them* (July 20, 2020).

<sup>4</sup> **The New York Times**, *Federal Officers Deployed in Portland Didn't Have Proper Training, D.H.S. Memo Said* (July 18, 2020).

<sup>5</sup> **PBS News**, *Whistleblower and Former ICE Attorney Calls Agent Training 'Deficient, Defective and Broke'* (February 24, 2026).

3.

The Trump administration's disregard for the U.S. Constitution comes at a significant expense to the American taxpayers. In Portland alone, tens of millions of taxpayer dollars have been wasted attempting to defend unconstitutional tactics and to compensate citizens targeted with excessive force by federal agents.<sup>6 7</sup>

4.

As of the date of this complaint, the Portland ICE facility remains in violation of land use laws,<sup>8</sup> federal agents in Portland face internal investigations for excessive force,<sup>9</sup> the Trump administration's deployment has been judicially restrained,<sup>10</sup> and DOJ lawyers who bend the truth to defend the Trump administration's tactics have found themselves subject to contempt proceedings.<sup>11 12</sup>

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<sup>6</sup> **The Oregonian**, *Feds Pay Nearly \$8M to Oregon Man Shot in the Face with Mmunition During 2020 Protest* (February 18, 2025).

<sup>7</sup> **The Oregonian**, *Feds Pay \$125K After Border Patrol Agent Pointed Gun at Portland Hotel Worker* (January 9, 2026).

<sup>8</sup> Land use violation at the ICE facility, CITY OF PORTLAND, <https://www.portland.gov/federal/about-ice/ice-land-use-violation> (last accessed March 3, 2026).

<sup>9</sup> Case No. 3:25-cv-02257-AB, Doc. #58-2, Cantu Transcript 37:19—39:8.

<sup>10</sup> Case No. 3:25-cv-1756-IM, Doc. #56; Case No. 3:25-cv-02170-SI, Doc. #68.

<sup>11</sup> Case No. 0:26-cv-00107-PJS-DLM, Doc. #12 (“—the bottom line is that ICE violated 97 orders in 66 of the cases referred to in the January 28 order.”).

<sup>12</sup> **The New York Times**, *Judges Grow Angry Over Trump Administration Violating Their Orders* (February 23, 2026).

5.

**JURISDICTION, VENUE, AND THE PARTIES**

Jurisdiction is proper because Mr. Herzberg's claims arise under the Federal Tort Claims Act. Venue and division are proper because the claims arose in Portland where Mr. Herzberg resides.

6.

Plaintiff Mr. Herzberg is an Oregon citizen.

7.

Defendant the United States of America is the government of the United States.

8.

**FACTUAL ALLEGATIONS**

On August 13, 2025 outside the ICE facility at 4310 S Macadam Avenue in Portland, Mr. Herzberg was peaceably assembled when federal agents violently tackled Mr. Herzberg from behind and pinned him to the ground, resulting in pain, mental suffering, emotional distress, humiliation, and inconvenience and interference with normal and usual activities apart from activities in gainful employment.

**9.**

On August 16, 2025 outside the ICE facility at 4310 S Macadam Avenue in Portland, Mr. Herzberg was peaceably assembled when federal agents violently tackled Mr. Herzberg to the ground and said to Mr. Herzberg, “You’re not talking shit anymore, are you?”, resulting in pain, mental suffering, emotional distress, humiliation, and inconvenience and interference with normal and usual activities apart from activities in gainful employment.

**10.**

Prior to filing this complaint Mr. Herzberg filed administrative claims and exhausted his administrative remedies under the Federal Tort Claims Act and the United States of America responded in writing on or around February 18, 2026 denying the claims and giving Mr. Herzberg notice that he may file suit.

11.

**CLAIMS FOR RELIEF**

**Claim One—Battery**

As alleged in this complaint, on August 13, 2025 federal agents acting within the scope of their employment with the United States of America acted, intending to cause harmful or offensive contact with Mr. Herzberg by violently tackling Mr. Herzberg from behind and pinning him to the ground, and the federal agents' actions caused harmful or offensive contact with Mr. Herzberg, resulting in pain, mental suffering, emotional distress, humiliation, and inconvenience and interference with normal and usual activities apart from activities in gainful employment. Accordingly, Mr. Herzberg seeks judgment against the United States of America for battery and noneconomic damages in amounts to be proven at trial and taxable costs.

12.

**Claim Two—Battery**

As alleged in this complaint, on August 16, 2025 federal agents acting within the scope of their employment with the United States of America acted, intending to cause harmful or offensive contact with Mr. Herzberg by violently tackling Mr. Herzberg to the ground, and the federal agents' actions caused harmful or offensive contact with Mr. Herzberg, resulting in pain, mental suffering, emotional distress,

humiliation, and inconvenience and interference with normal and usual activities apart from activities in gainful employment. Accordingly, Mr. Herzberg seeks judgment against the United States of America for battery and noneconomic damages in amounts to be proven at trial and taxable costs.

**13.**

**PRAYER**

Mr. Herzberg respectfully requests relief as sought above and any other relief the Court deems appropriate.

March 3, 2026

**RESPECTFULLY FILED,**

s/ Michael Fuller

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